IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO. 22 OF 2007

Yashwant M. Gavand ... Petitioner

V/s.

Municipal Corporation of Greater Mumbai & Ors. ... Respondents

Mr. R.S. Datar i/by M/s. R & D Legal for the Petitioner

Ms. Shobha Ajeet Kumar for Respondent No. 1

Ms. S.M. Dandekar, Assistant Government Pleader, for Respondent Nos. 2 nd 4.

CORAM: **J.N. PATEL AND A.A. SAYED, JJ.**

DATE: **AUGUST 30, 2007**

P.C.:-

1. The petitioner, a public spirited person, has approached this Court in public interest, seeking directions of this Court to direct the authorities, particularly the respondent - Municipal Corporation to forthwith clean the lake known as “Shivaji Talao”, situate at Survey No. 149, City Survey Nos. 181 and 182,

Bhandup (West), by removing the sediments from the lake by completely desilting the lake and also by removing the blockage of natural springs which bring water to the said lake and maintain cleanliness of the said lake, and for other ancillary reliefs, including the removal of encroachers away from the lake.

2. On an earlier occasion also, a similar petition was filed, and this Court disposed of that petition by its order dated 8th February, 2006, in which the Court observed that after taking into consideration the reply of respondent Nos. 1 and 4, it was satisfied that nothing further was required to be directed in that petition.

3. We find that this is a case of a never-ending story. The grievance of the petitioner is against the residents of the locality for polluting the lake, and against the Municipal Corporation for not cleaning it. We find that any amount of order in the nature of Writ of Mandamus or direction cannot resolve this problem, unless the residents themselves decide to prevent the people from polluting the lake. It is the duty enjoined upon all the residents to

see that the lake is not polluted; and they should take necessary steps in the matter. We find no reason why the residents should not volunteer, come together and take up the responsibility of removing the sediments and desilt from the lake as a community and voluntary service.

4. In response to this public interest litigation, the respondent-Municipal Corporation has already filed their affidavit-in-reply. It is contended that the encroachments are on private property, and an arrangement has been entered into between the owner of the private property and the Municipal Corporation that if the Municipal Corporation of Greater Mumbai (M.C.G.B.) removes the encroachments, they can take over the land under encroachment for the purpose of beautification.

5. The respondent-M.C.G.B. would go ahead with the arrangement, and see that all encroachers are removed from the area, and in case they are protected under any of the schemes of the M.C.G.B. or the State Government and are entitled for

rehabilitation, necessary steps be taken in the matter. We expect that at least in the ensuing Ganpati Festival, the residents of the locality would be sensitised by the petitioner, with the help of N.G.Os. and public-spirited persons, and they will not permit any immersion of idol of Ganpati or Gauri and all the wastages and coconuts, which will result in polluting the lake. Public funds cannot be spent repeatedly for undertaking such an exercise. The local residents themselves should see that the lake is not polluted; and they should take necessary steps in the matter on every occasion like Ganpati Festival, *Navratri* Festival and so on.

6. We, therefore, do not find it necessary to interfere in t he matter, and dispose of this public interest litigation accordingly.

J.N. PATEL, J.

A.A. SAYED, J.